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**THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

STEVE ELLIS, *et al.*,

Plaintiffs,

v.

JACK HOUSENGER, *et al.*,

Defendants,

and

BAYER CROPSCIENCE LP, *et al.*,

Defendant-Intervenors.

) Case No.: 3:13-cv-01266-MMC

) **JOINT STIPULATION OF PARTIAL**
) **DISMISSAL AND PROPOSED ORDER**

Four of the product registrations at issue in the Fifth Claim of Plaintiffs' Second Amended Complaint (ECF No. 126), have been cancelled by EPA at the request of the registrant for reasons unrelated to this case. The four cancelled product registrations are:

- Titan FL, EPA Reg. No. 264-984
- Three-Way VAP, EPA Reg. No. 264-1079
- Proceed Plus, EPA Reg. No. 264-1082
- AE 1283742, EPA Reg. No. 264-846

See EPA, Product Cancellation Order for Certain Pesticide Registrations, 79 Fed. Reg. 41553-01 (July 16, 2014) (announcing voluntary cancellation of EPA Reg. Nos. 264-984, 264-1079, and 264-1082); EPA, Product Cancellation Order for Certain Pesticide Registrations, 80 Fed. Reg. 13846-02 (Mar. 17, 2015) (announcing voluntary cancellation of EPA Reg. No. 264-846).

All parties to the above-captioned case hereby stipulate and agree to the partial dismissal of Claim 5 of the Second Amended Complaint to the extent it is based on EPA approvals for the four cancelled product registrations identified above. A proposed Order is attached.

Dated: June 8, 2016.

Respectfully Submitted,

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~~PROPOSED~~ PARTIAL DISMISSAL ORDER


Upon consideration of the parties' Joint Stipulation for Partial Dismissal, it is ORDERED that pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiffs' Fifth Claim against Defendants Steven P. Bradbury, et al., is hereby dismissed with prejudice to the extent it is based on EPA approvals for the following four product registrations, which the parties have stipulated were voluntarily cancelled by EPA:

- Titan FL, EPA Reg. No. 264-984
- Three-Way VAP, EPA Reg. No. 264-1079
- Proceed Plus, EPA Reg. No. 264-1082
- AE 1283742, EPA Reg. No. 264-846

The references to these product registrations, and associated dates of agency actions alleged to have triggered a duty to consult, are hereby stricken from the Second Amended Complaint. *See* SAC ¶ 128 (ECF No. 126).

IT IS SO ORDERED.

DATED this 8th day of June, 2016.


MAXINE M. CHESNEY
United States District Judge